

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

PATRICK L. SHERMAN

PETITIONER

ADC #96304

V.

NO. 5:13cv00213 SWW-JTR

RAY HOBBS, Director,

RESPONDENT

Arkansas Department of Correction

ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge J. Thomas Ray and the filed objections. After carefully considering these documents and making a *de novo* review of pertinent portions of the record in this case, the Court concludes that the Proposed Findings and Recommended Disposition should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects. Judgment will be entered accordingly.

IT IS THEREFORE ORDERED THAT:

1. Respondent's Motion to Dismiss, *Doc. #5*, is GRANTED;
2. The Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254, *Doc. #2*, is DISMISSED, WITHOUT PREJUDICE, so that Petitioner may seek

authorization from the Eighth Circuit Court of Appeals, pursuant to 28 U.S.C.

§ 2244(b)(3)(A), to file a successive habeas petition;

3. Petitioner's Motion to Declare § 2244(b)(3)(A) Unconstitutional, *Doc. #6*, is DENIED, WITHOUT PREJUDICE; and

4. A Certificate of Appealability is DENIED pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts.

DATED this 30th day of September, 2013.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE